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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91249261
Party	Defendant Sol de Janeiro Limited
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Application Ser. No.: 88/044,273
Mark: COCO CABANA
International Class: 03
Applicant: Sol de Janeiro Limited
Date of Publication: January 8, 2019

CHANEL, INC.

Opposer,

v.

SOL DE JANEIRO LIMITED

Applicant.

Opposition No. 91249261

ANSWER TO NOTICE OF OPPOSITION

Applicant, Sol de Janeiro Limited (“SDJ” or Applicant”), by and through its undersigned counsel of record, Lackenbach Siegel, LLP, for its Answer (the “Answer”) to the notice of opposition (the “Opposition”) filed by opposer, Chanel, Inc. (“Chanel” or “Opposer”), states as follows:

1. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in ¶1 of the Opposition and therefore denies them.
2. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in ¶2 of the Opposition and therefore denies them.
3. Applicant admits that the TSDR database records of the United States Patent and Trademark Office (“USPTO”) attached to the Opposition by Opposer as Exhibit A speak for themselves as of the date printed, including as to Opposer’s record ownership as of that date of

registrations for the COCO, COCO MADEMOISELLE, ROUGE COCO, and COCO NOIR marks, but Applicant is without information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in ¶3 of the Opposition and therefore denies them.

4. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in ¶4 of the Opposition and therefore denies them.

5. Applicant admits that the TSDR database records of the United States Patent and Trademark Office (“USPTO”) attached to the Opposition by Opposer as Exhibit A speak for themselves as of the date printed, including as to Opposer’s record ownership as of that date of registrations for the COCO, COCO MADEMOISELLE, ROUGE COCO, and COCO NOIR marks, but Applicant is without information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in ¶5 of the Opposition and therefore denies them.

6. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in ¶6 of the Opposition and therefore denies them.

7. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in ¶7 of the Opposition and therefore denies them.

8. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in ¶8 of the Opposition and therefore denies them.

9. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in ¶9 of the Opposition and therefore denies them.

10. Applicant admits the allegations contained in ¶10 of the Opposition.

11. Applicant admits that it caused to be filed Application Serial No. 88/044,273 to register the mark COCO CABANA on July 19, 2018 for various cosmetic, skin care and other products in International Class 3 based on an intent to use, but Applicant is without information

or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in ¶11 of the Opposition, including the definition or meaning of “a wide variety of cosmetic and skin care products,” and therefore denies them.

12. Applicant admits that if Application Serial No. 88/044,273 matures to a registration, Applicant’s first use date of its COCO CABANA mark, for priority purposes, will be the filing date of this Application, and Applicant further admits that, according to the USPTO TSDR database records attached as Exhibit A to the Opposition, Opposer obtained federal trademark registrations for the marks COCO, COCO MADEMOISELLE, ROUGE COCO, and COCO NOIR prior to the filing date of Application Serial No. 88/044,273, but Applicant is otherwise without information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in ¶12 of the Opposition and therefore denies them.

13. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in ¶13 of the Opposition and therefore denies them.

14. To the extent that ¶14 of the Opposition alleges that Applicant was on constructive notice on some given date of Opposer’s ownership of certain trademark registrations for “COCO” formative marks, such allegation purports to state a legal conclusion and thus does not require an answer; Applicant otherwise denies the allegations contained in ¶14 of the Opposition.

15. Applicant admits that Opposer has not provided Applicant with a consent to use or register the mark COCO CABANA, but Applicant is otherwise without information or knowledge sufficient to form a belief as to the truth of the allegations contained in ¶15 of the Opposition and therefore denies them.

16. Applicant is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in ¶16 of the Opposition and therefore denies them.

17. The allegations of ¶17 of the Opposition do not require an answer.

18. Applicant admits that the first word of its applied-for COCO CABANA trademark is the word “coco,” and further that according to the USPTO TSDR database records attached as Exhibit A to the Opposition, Opposer is the record owner of U.S. trademark registrations for the trademark COCO; Applicant otherwise denies the allegations of ¶18 of the Opposition.

19. Applicant admits that the TSDR database records of the United States Patent and Trademark Office (“USPTO”) attached to the Opposition by Opposer as Exhibit A speak for themselves as of the date printed, including as to Opposer’s record ownership as of that date of registrations for the COCO MADEMOISELLE and COCO NOIR marks; Applicant denies that “the composite mark shown in the Application is similar to and would be seen as being related to the COCO Marks used and registered by Opposer;” Applicant otherwise is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in ¶19 of the Opposition and therefore denies them.

20. Applicant admits that its Application Serial No. 88/044,273 seeks registration of the mark COCO CABANA in connection with cosmetic and other goods in International Class 3; Applicant otherwise denies the allegations of ¶ 20 of the Opposition.

21. Applicant admits that its Application Serial No. 88/044,273 seeks registration of the mark COCO CABANA in connection with cosmetic and other goods in International Class 3; otherwise, ¶ 21 of the Opposition purports to recite a legal conclusion and thus does not require an answer.

22. Applicant denies the allegations of ¶ 22 of the Opposition.
23. Applicant denies the allegations of ¶ 23 of the Opposition.
24. Applicant denies the allegations of ¶ 24 of the Opposition.

AFFIRMATIVE DEFENSES

1. Applicant's mark COCO CABANA is not likely to be confused with Opposer's COCO Marks because of the clear differences in sight, sound, and connotation between COCO CABANA and Opposer's COCO MARKS.

2. Applicant's mark COCO CABANA is not likely to be confused with Opposer's COCO Marks because goods marketed and sold by Opposer in connection with its COCO Marks travel in different channels of commerce than goods marketed and sold and/or to be marketed and sold by Applicant in connection with its COCO CABANA mark.

3. Applicant's mark COCO CABANA is not likely to be confused with Opposer's COCO Marks because goods sold by Opposer in connection with its COCO Marks are marketed and sold to different classes of customers than goods sold and/or to be sold by Applicant in connection with its COCO CABANA mark.

4. Upon information and belief, Opposer's claims may be barred, in whole or in part, by Opposer's implied consent and/or acquiescence.

5. Upon information and belief, Opposer's claims may be barred, in whole or in part, by the doctrine of equitable estoppel.

6. Upon information and belief, Opposer's claims may be barred, in whole or in part,
by Opposer's unclean hands.

Dated: Scarsdale, New York
September 11, 2019

Respectfully submitted,

LACKENBACH SIEGEL LLP

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing documents was served on Opposer via electronic mail, addressed to Opposer's counsel as follows:

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Dated: Scarsdale, New York
September 11, 2019

/s/ Marlana Del Colle
Marlana Del Colle